



[3510-16-P]

## **DEPARTMENT OF COMMERCE**

### **United States Patent and Trademark Office**

**[Docket No.: PTO-P-2014-0036]**

#### **Request for Comments and Extension of Comment Period on Examination**

#### **Instruction and Guidance Pertaining to Patent-Eligible Subject Matter**

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Request for comments.

**SUMMARY:** The United States Supreme Court (Supreme Court) recently issued a decision in Alice Corporation Pty. Ltd. v. CLS Bank International (Alice Corp.), which dealt with claims to a computerized scheme for mitigating settlement risk. The Supreme Court held in a unanimous decision that the claimed subject matter was not patent-eligible because it was drawn to the abstract idea of intermediated settlement implemented on a generic computer. The United States Patent and Trademark Office (USPTO) has issued preliminary instructions on Alice Corp. to the patent examining corps and these preliminary instructions have been posted on the USPTO's Internet Web site. The USPTO is inviting public comment on the Alice Corp. preliminary instructions.

The USPTO is also extending the period for public comment on the Examination Guidance For Determining Subject Matter Eligibility Of Claims Reciting Or Involving Laws of Nature, Natural Phenomena, and Natural Products (Laws of Nature/Natural Products Guidance).

**DATES:** Written comments on the Alice Corp. preliminary instructions and/or on the Laws of Nature/Natural Products Guidance must be received on or before July 31, 2014.

**ADDRESSES:** Comments on the Alice Corp. preliminary instructions may be sent by electronic mail message over the Internet addressed to: [alice\\_2014@uspto.gov](mailto:alice_2014@uspto.gov).

Comments on the Laws of Nature/Natural Products Guidance may be sent by electronic mail message over the Internet addressed to: [myriad-mayo\\_2014@uspto.gov](mailto:myriad-mayo_2014@uspto.gov).

Comments that apply to both the Alice Corp. preliminary instructions and the Laws of Nature/Natural Products Guidance may be sent by electronic mail message over the Internet addressed to either: [myriad-mayo\\_2014@uspto.gov](mailto:myriad-mayo_2014@uspto.gov), or [alice\\_2014@uspto.gov](mailto:alice_2014@uspto.gov).

Electronic comments submitted in plain text are preferred, but also may be submitted in ADOBE® portable document format or MICROSOFT WORD® format. Comments not submitted electronically should be submitted on paper in a format that facilitates convenient digital scanning into ADOBE® portable document format. The comments will be available for viewing via the Office's Internet Web site

(<http://www.uspto.gov>). Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

**FOR FURTHER INFORMATION CONTACT:** Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, by telephone at 571-272-7728, or Caroline D. Dennison, Senior Legal Advisor, Office of Patent Legal Administration, by telephone at 571-272-7729.

**SUPPLEMENTARY INFORMATION:** The Supreme Court recently issued a decision in Alice Corp. (Alice Corporation Pty. Ltd. v. CLS Bank International , 573 U. S. \_\_\_\_ (2014)), which dealt with claims to a computerized scheme for mitigating settlement risk. The Supreme Court held in a unanimous decision that the claimed subject matter in question was not patent-eligible because it was drawn to the abstract idea of intermediated settlement implemented on a generic computer. The United States Patent and Trademark Office (USPTO) has issued preliminary instructions to the patent examining corps and these preliminary instructions are available on the USPTO's Internet Web site (patent examining corps guidance and instructions can be found at: <http://www.uspto.gov/patents/law/exam/examguide.jsp>). The USPTO is inviting public comment on the Alice Corp. preliminary instructions before providing more comprehensive guidance to the patent examining corps. Written comments on the Alice Corp. preliminary instructions must be received on or before July 31, 2014.

The USPTO is also extending the period for public comment on the Laws of Nature/Natural Products Guidance. The USPTO published the Laws of Nature/Natural Products Guidance on its Internet Web site (as discussed previously, examining corps guidance and instructions can be found at: <http://www.uspto.gov/patents/law/exam/examguide.jsp>). The USPTO also published an announcement on its Internet Web site that it was hosting a public forum (conducted on May 9, 2014) and providing until June 30, 2014, for public comment on the Laws of Nature/Natural Products Guidance. See Notice of Forum on the Guidance For Determining Subject Matter Eligibility of Claims Reciting or Involving Laws of nature, Natural Phenomena, and Natural Products, 79 FR 21736 (Apr. 17, 2014).

The USPTO has received several requests from our stakeholders for additional time to submit comments on the Laws of Nature/Natural Products Guidance. In addition, the Supreme Court in Alice Corp. applied its framework from Mayo Collaborative Services v. Prometheus Laboratories, Inc., 566 U. S. \_\_\_\_ (2012), in determining whether the claims in Alice Corp. were directed to a patent-ineligible abstract idea. For these reasons, the USPTO is extending the period for public comment on the Laws of Nature/Natural Products Guidance until July 31, 2014.

Date: June 25, 2014\_

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Margaret A. Focarino  
Commissioner for Patents

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